

**IN THE COURT OF JASWINDER SINGH,
ADDITIONAL SESSIONS JUDGE, GURDASPUR.**

Bail Application No. 101/10.02.2022

CIS No.BA/376/2022

CNR No. PBGD01-000883-2019

Date of Decision: 15/02/2022

Gurminder Singh son of Jaspal Singh, resident of Village Sham Village
Bharth, Tehsil Batala and District Gurdaspur.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

FIR No. 35 Dated 08/08/2016
U/Ss 379, 411 IPC
Police Station Fatehgarh Churrian

Application for bail under Section 438 Cr.P.C.

Present: Sh. Pankaj Kumar, Advocate, counsel for petitioner.
Shri Kiran Kumar, Additional P.P for State.

ORDER

1. This order of mine shall dispose of an application filed by above petitioner for grant of bail under Section 438 of Cr.P.C.
2. Upon notice, learned Additional P.P. appeared and contested the bail application. Police/Lower Court record was also requisitioned.
3. The present FIR was registered against the petitioner and others co-accused with the allegations that on 27.06.2016, petitioner alongwith co-accused committed theft of motorcycle bearing No. PB-02-BS-6356 belonging to complainant Sunil Kumar. Petitioner was arrested and he was released on regular bail. While the case was pending for

prosecution evidence, petitioner failed to turn up in the Court and his bail order was cancelled vide order dated 25.03.2019 and he was summoned through non-bailable warrants. When the presence of petitioner could not be procured through bailable warrants, non-bailable warrants and proclamation, he was declared proclaimed person vide order dated 16/12/2021.

4. It is submitted by learned counsel for the petitioner that non appearance of petitioner was not intentional. On 20.12.2018, petitioner had come present after issuance of his bailable warrants. The proceedings under Section 446 Cr.P.C was initiated against him and he was fined ₹ 2000/-, which was paid. Thereafter, accused had got a job in Tata Metaliks Limited under a company namely SIMEC(Shipping, Infrastructure, Mining, Energy and Commodities) at Mumbai, Bangalore. He moved exemption applications before the trial Court but same were declined. Then petitioner through his counsel moved application under Section 70(2) Cr.P.C for cancellation of bailable warrants on 19.01.2019, which was declined. Due to his job, petitioner was unable to join the proceedings of the Court. Ultimately, he came back from his job to face trial but he came to know that on 16.12.2021, he was declared proclaimed person. His absence was not intentional. He is ready to face the trial, so he may be admitted to pre-arrest bail.

5. On the other hand, learned Additional Public Prosecutor submitted that the petitioner is a proclaimed person. There are numerous

judgments of Hon'ble Apex Court that a proclaimed person not to be released on pre-arrest bail. Petitioner has already delayed the disposal of present trial due to his non appearance, hence, present bail application of petitioner may be dismissed.

6. I have considered the rival contentions of learned counsel for petitioner as well as of learned Additional Public Prosecutor and perused the record.

7. A perusal of record shows that petitioner had been habitually moving exemption applications before the learned lower court. When petitioner did not turn up in the Court on 20.11.2018, he was summoned through bailable warrants. He appeared in the Court on 20.12.2018 and on that day, a fine of ₹ 2000/- was imposed upon him but thereafter, the counsel for petitioner again started moving exemption applications on his behalf. Learned lower court declined the exemption application of petitioner vide order dated 10.01.2019 and he was summoned through bailable warrants. The application of petitioner under Section 70 (2) of Cr.P.C for recalling bailable warrants was also dismissed vide order dated 19.01.2019. Learned lower court made best efforts to procure the presence of petitioner through ordinary process but he did not bother to appear personally before the learned lower court, hence, the bail of petitioner was cancelled vide order dated 25.03.2019. Despite issuance of bailable warrants, non-bailable warrants and proclamation, petitioner did not surrender before the learned lower court, as such, he was declared

proclaimed person vide order dated 16.12.2021. From a perusal of record, it is clear that petitioner has misused the concession of bail granted to him. He has already delayed the disposal of present case. Keeping in view the previous conduct of the petitioner, this court is of the considered opinion that he is not entitled to the concession of pre-arrest bail, as such, present application is hereby dismissed. Lower court file be returned. Record of bail file be consigned to the record room.

Pronounced
Dated:15/02/2022
Gurpreet Singh, Stenographer-II

(Jaswinder Singh)
Addl.Sessions Judge,
GurdaspurUID No.PB0516

Present: Sh. Pankaj Kumar, Advocate, counsel for petitioner.
Shri Kiran Kumar, Ld. Additional P. P for State

Lower court record received. Police file perused. Arguments heard. Vide my separate detailed order of even date, present bail application has been dismissed. Lower court file be returned. Record of bail file be consigned to the record room.

Pronounced
Dated:15/02/2022
Gurpreet Singh, Stenographer-II

(Jaswinder Singh)
Addl.Sessions Judge,
GurdaspurUID No.PB0516